

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1 and 3-23 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

#### ***Specification***

The Examiner objected the specification and required that the patent number be added to the priority application information. This has now been accomplished by way of the present amendment. Accordingly, this objection is overcome.

#### ***Claim Objections***

The Examiner objected to the claims due to several minor grammatical problems. By way of the present amendment, Applicants have changed the indicated language as the Examiner suggested. Accordingly, this objection is overcome.

#### ***Rejection under 35 U.S.C. 102***

Claims 1, 4, 5, 7-10 and 13 stand rejected under 35 U.S.C. 102 as being anticipated by Fukushima et al. (U.S. Patent 5,237,553). This rejection is respectfully traversed.

Applicants have now amended the claims to include additional limitations. The limitations of claim 2 have been added to claim 1 and new limitations have been added to claim 10. Furthermore, to some claims, Applicants have added limitations regarding the real time

recording or reproducing, so that blocks can be skipped rather than replaced as needed. Basis for this limitation is found in paragraphs 41-43 of the specification.

Applicants first submit that Fukushima does not clearly show the steps of the present method. While Fukushima describes a “sequential access zone”, there is no description in the reference as to how this operates. In column 9, lines 13-23, the reference describes the changing of logical addresses in a fashion similar to that of the conventional example, presumably shown in Figure 10. However, the exact process in doing this is not described. Thus, Applicants submit that the Examiner is incorrect in indicating that Fukushima describes skipping the defective block and recording or reproducing data in the next available block. Furthermore, Fukushima does not describe the use of the two different systems based on the need for real time recording or reproducing and as indicated by a flag.

Furthermore, Applicants submit that claim 1 further defines over Fukushima since the limitations of claim 2 have been added, which the Examiner has already indicated is not rejected over this reference alone.

In regard to claim 8, it is noted that the claim differentiates between defective blocks, which are replaced with blocks of a spare area and defective blocks which are merely skipped. Accordingly, Applicants submit that claim 8 is likewise allowable over this reference.

Claims 3, 4, 6-7, 9, 11, 12 and 13 depend from independent claims 1, 8 and 10 and as such are also considered to be allowable. In addition, each of these claims provide other features which make them additionally allowable.

***Rejections under 35 U.S.C. 103***

Claims 2, 3 and 11 stand rejected under 35 U.S.C. 103 as being obvious over Fukushima et al. in view of Kulakowski et al. (U.S. Patent 5,303,219). This rejection is respectfully traversed.

Claim 2 has now been cancelled rendering this part of the rejection moot. However, this rejection will be considered in regard to claim 1 which now include those limitations.

The Examiner states that Kulakowski et al. identifies the number of skipped blocks and outputs an information indicating the number of blocks skipped. Applicants submit that this reference does not teach the language of the claims. The reference discusses sending information regarding the crossing of the threshold of spare sectors rather than identifying a number of blocks skipped during the real time recording/reproducing. Thus, Applicants submit that it does not teach the same limitation presented in claims 2 and 11. Furthermore, Applicants submit that it would not be obvious to utilize this feature along with the system of Fukushima, due to their different operating procedures. Accordingly, Applicants submit that the claims overcome this combination of references also.

Claims 6 and 12 stand rejected under 35 U.S.C. 103 as being obvious over Fukushima et al. and in view of Otsuka (U.S. Patent 6,094,723). This rejection is respectfully traversed.

Applicants submit that these claims are allowable based on their dependency from allowable claims 1 and 10. Further, the Examiner relies on Otsuka to show receiving a logical

block address to designate a recording or reproducing position. Applicants submit that even if this reference does teach this feature, assuming *arguendo*, the claims remain allowable based on their dependency from the allowable independent claims.

Applicants have also added new claims 14-19 which relate to the inclusion of speed information as noted in paragraphs 44 and 45 of the specification. Applicants submit that the Fukushima et al. reference and the other references do not teach this specific use of the speed of the data transfer as is presently claimed. Accordingly, Applicants submit that these claims are additionally allowable.

Applicants have also added new claims 20-23 including new independent claims 20 and 22 which relate to the receiving of the command for recording or reproducing and not replacing a found defective area with a spare area and either issuing or identifying a number of defective areas not replaced. Applicants submit that these independent claims are allowable for the same reasons recited above in regard to independent claims 1, 8 and 10. Dependent claims 21 and 23 further discuss the step of skipping a found defective area.

***Conclusion***

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

If the Examiner has any questions or comments, please contact Robert F. Gnuse, Reg. No. 27,295 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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